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REFERENCE TITLE: **tax appeals; administrative hearings**

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HB 2135

Introduced by
Representative Huffman

AN ACT

AMENDING SECTION 42-1251, ARIZONA REVISED STATUTES; RELATING TO TAX APPEALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 42-1251, Arizona Revised Statutes, is amended to read:

42-1251. Appeal to the department; hearing

A. Except in the case of individual income taxes, a person from whom an amount is determined to be due under article 3 of this chapter may apply to the department by a petition in writing within forty-five days after the notice of a proposed assessment made pursuant to section 42-1109, subsection B or the notice required by section 42-1108, subsection B is received, or within such additional time as the department may allow, for a hearing, correction or redetermination of the action taken by the department. In the case of individual income taxes the period is ninety days from the date the notice is mailed. The petition shall set forth the reasons why the hearing, correction or redetermination should be granted and the amount in which any tax, interest and penalties should be reduced. If only a portion of the deficiency assessment is protested, all unprotested amounts of tax, interest and penalties must be paid at the time the protest is filed. The department shall consider the petition and grant a hearing, if requested. To represent the taxpayer at the hearing or to appear on the taxpayer's behalf is deemed not to be the practice of law.

B. If the taxpayer does not file a petition for hearing, correction or redetermination within the period provided by this section, the amount determined to be due becomes final at the expiration of the period. The taxpayer is deemed to have waived and abandoned the right to question the amount determined to be due, unless the taxpayer pays the total deficiency assessment, including interest and penalties. The taxpayer may then file a claim for refund pursuant to section 42-1118 within six months of payment of the deficiency assessment or within the time limits prescribed by section 42-1106, whichever period expires later.

C. All orders or decisions made on the filing of a petition for a hearing, correction or redetermination become final thirty days after notice has been received by the petitioner, unless the petitioner appeals the order or decision to the state board of tax appeals.

D. UNLESS A TAXPAYER REQUESTS AN INFORMAL CONFERENCE IN ADDITION TO OR IN LIEU OF A HEARING, THE DEPARTMENT OR THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL SCHEDULE A HEARING THAT IS REQUESTED UNDER SUBSECTION A OF THIS SECTION WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE DATE THAT THE TAXPAYER SUBMITS A WRITTEN REQUEST FOR A HEARING. IF A TAXPAYER INITIALLY REQUESTS AN INFORMAL CONFERENCE AND THE INFORMAL CONFERENCE DOES NOT LEAD TO A RESOLUTION, THE TAXPAYER MAY SUBMIT A WRITTEN REQUEST FOR A HEARING AND THE DEPARTMENT OR THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL SCHEDULE THE HEARING WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE DATE THAT THE TAXPAYER SUBMITS THE WRITTEN REQUEST FOR THE HEARING.

E. IF A TAXPAYER USES THE INFORMAL CONFERENCE PROCESS, THE ONE HUNDRED EIGHTY DAY PERIOD AFTER THE INFORMAL CONFERENCE PROCESS SHALL BE DEEMED THE INITIAL PERIOD. BEFORE THE INITIAL PERIOD EXPIRES, THE TAXPAYER MAY SUBMIT A

1 WRITTEN REQUEST TO THE DEPARTMENT, OR MAY CONSENT TO A REQUEST BY THE
2 DEPARTMENT, TO SCHEDULE A HEARING ON A DATE THAT IS AFTER THE INITIAL PERIOD.
3 THE DEPARTMENT OR THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL SCHEDULE THE
4 HEARING ON OR ABOUT THE DATE CONTAINED IN THE TAXPAYER'S WRITTEN REQUEST OR
5 CONSENT, BUT SHALL NOT SCHEDULE THE HEARING AFTER THE DATE CONTAINED IN THE
6 TAXPAYER'S WRITTEN REQUEST OR CONSENT. THE TAXPAYER MAY REQUEST OR CONSENT
7 TO A SUBSEQUENT EXTENSION DATE FOR THE HEARING ONLY IF THE TAXPAYER'S REQUEST
8 OR CONSENT IS MADE BEFORE THE SCHEDULED HEARING DATE. WITHOUT THE CONSENT OF
9 THE DEPARTMENT, THE TAXPAYER MAY NOT EXTEND THE HEARING DATE BEYOND TWELVE
10 MONTHS AFTER THE INITIAL PERIOD.

11 F. IF A HEARING IS NOT HELD WITHIN THE DATES PRESCRIBED IN SUBSECTIONS
12 D AND E OF THIS SECTION, THE TAXPAYER'S PETITION SHALL BE DEEMED DENIED. A
13 DENIED PETITION SHALL BE THE DEPARTMENT'S FINAL DECISION OR ORDER AND IS
14 EFFECTIVE THIRTY DAYS AFTER THE TAXPAYER RECEIVES THE DEPARTMENT'S WRITTEN
15 DENIAL NOTICE. THE TAXPAYER MAY APPEAL THE DEPARTMENT'S FINAL DECISION OR
16 ORDER TO THE STATE BOARD OF TAX APPEALS UNDER SECTION 42-1253 OR TO THE TAX
17 COURT UNDER SECTION 42-1254.

18 G. A TAXPAYER MAY FILE A WRITTEN REQUEST TO STAY A HEARING UNDER THIS
19 SECTION WITH THE CONSENT OF THE DEPARTMENT IF A MATTER AT ISSUE IS SUBJECT TO
20 PENDING LEGISLATION, LITIGATION OR SETTLEMENT.